



January 20, 2006

HOUSE BILL No. 1207

DIGEST OF HB 1207 (Updated January 18, 2006 3:53 pm - DI 69)

Citations Affected: IC 35-43.

Synopsis: Home improvement fraud. Expands the circumstances in which a home improvement supplier commits home improvement fraud. Makes home improvement fraud a Class D felony or Class C felony in certain cases if: (1) the consumer is at least 60 years of age and the contracted amount exceeds a certain limit; or (2) the home improvement supplier violates two or more provisions of the law.

Effective: July 1, 2006.

Pond, Bell

January 9, 2006, read first time and referred to Committee on Courts and Criminal Code.
January 19, 2006, reported — Do Pass.

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HB 1207—LS 6138/DI 107+



January 20, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1207

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-6-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) A home
3 improvement supplier who enters into a home improvement contract
4 and knowingly:

5 (1) misrepresents a material fact relating to:

6 (A) the terms of the home improvement contract; or

7 (B) ~~the~~ a preexisting or existing condition of any part of the
8 property involved, **including a misrepresentation**
9 **concerning the threat of:**

10 (i) fire; or

11 (ii) structural damage;

12 **if the property is not repaired;**

13 (2) creates or confirms a consumer's impression that is false and
14 that the home improvement supplier does not believe to be true;

15 (3) promises performance that the home improvement supplier
16 does not intend to perform or knows will not be performed;

17 (4) uses or employs any deception, false pretense, or false promise

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to cause a consumer to enter into a home improvement contract;
 (5) enters into an unconscionable home improvement contract
 with a home improvement contract price of four thousand dollars
 (\$4,000) or more; or

(6) fails to comply with the provisions of IC 23-15-1 relating to
 the use of an assumed name in the conduct or transaction of
 business in Indiana and misrepresents or conceals either the home
 improvement supplier's:

(A) real name;

(B) business name; or

(C) physical or mailing business address; or

(D) telephone number;

(7) fails to notify a consumer of a change in the home
 improvement supplier's:

(A) physical or mailing business address; or

(B) telephone number;

if the home improvement supplier has an outstanding written
 warranty or guarantee of a home improvement with the
 consumer;

(8) fails to provide a consumer a written copy of a warranty
 or guarantee that states:

(A) the length of the warranty or guarantee;

(B) the home improvement that is covered by the warranty
 or guarantee; or

(C) how the consumer could make a claim for a repair
 under the warranty or guarantee;

(9) uses a product in a home improvement that has been
 diluted, modified, or altered in a manner that would void the
 manufacturer's warranty of the product without disclosing to
 the consumer the reasons for the dilution, modification, or
 alteration and that the manufacturer's warranty may be
 compromised; or

(10) falsely claims to a consumer that the home improvement
 supplier:

(A) was referred to the consumer by a contractor who
 previously worked for the consumer;

(B) is licensed, certified, or insured; or

(C) has obtained all necessary permits or licenses before
 starting a home improvement;

commits home improvement fraud, a Class B misdemeanor, except as
 provided in ~~section 13(a)~~ **section 13** of this chapter.

(b) A home improvement supplier who, with the intent to enter into

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a home improvement contract, knowingly:

- (1) damages the property of a consumer;
- (2) does work on the property of a consumer without the consumer's prior authorization;
- (3) misrepresents that the supplier or another person is an employee or agent of the federal government, the state, a political subdivision of the state, or any other governmental agency or entity; or
- (4) misrepresents that the supplier or another person is an employee or agent of any public or private utility;

commits a Class A misdemeanor, except as provided in section 13(b) of this chapter.

SECTION 2. IC 35-43-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The offense in section 12(a) of this chapter is a Class A misdemeanor:

- (1) when the home improvement contract price is one thousand dollars (\$1,000) or more;
- (2) for the second or subsequent offense;
- (3) if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention;
- (4) if, in a violation of section 12(a)(5) of this chapter, the home improvement contract price is ten thousand dollars (\$10,000) or less; **or**
- (5) if, in a violation of section 12(a)(6) of this chapter, the home improvement contract price is more than one thousand dollars (\$1,000). **or**
- ~~(6) if, in a violation of section 12(a)(1) through 12(a)(4) of this chapter, the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less.~~

(b) The offense in section 12 of this chapter is a Class D felony:

- (1) if, in a violation of section 12(a)(5) of this chapter, the home improvement contract price is more than ten thousand dollars (\$10,000);
- ~~(2) if, in a second or subsequent violation of section 12(a)(1) through section 12(a)(4) of this chapter, the consumer is at least sixty (60) years of age and the home improvement contract price is one thousand dollars (\$1,000) or less;~~
- ~~(3) (2) if, in a violation of:~~

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1 **(A) section 12(a)(1) through 12(a)(5); or**
 2 **(B) section 12(a)(7) through 12(a)(10);**
 3 of this chapter, the consumer is at least sixty (60) years of age and
 4 the home improvement contract price is ten thousand dollars
 5 (\$10,000) or less; ~~and~~
 6 ~~(4)~~ **(3)** if, in a violation of section 12(b) of this chapter, the
 7 consumer is at least sixty (60) years of age; **or**
 8 **(4) if the home improvement supplier violates more than one**
 9 **(1) subdivision of section 12(a) of this chapter.**
 10 (c) The offense in section 12(a) of this chapter is a Class C felony:
 11 (1) if, in a violation of:
 12 **(A) section 12(a)(1) through ~~section 12(a)(4)~~ 12(a)(5); or**
 13 **(B) section 12(a)(7) through 12(a)(10);**
 14 of this chapter, the consumer is at least sixty (60) years of age and
 15 the home improvement contract price is more than ten thousand
 16 dollars (\$10,000); **or**
 17 (2) if, in a violation of:
 18 **(A) section 12(a)(1) through ~~section 12(a)(4)~~; or**
 19 **(B) section 12(a)(7) through 12(a)(10);**
 20 of this chapter, the consumer is at least sixty (60) years of age,
 21 and two (2) or more home improvement contracts exceed an
 22 aggregate amount of one thousand dollars (\$1,000) and are
 23 entered into with the same consumer by one (1) or more suppliers
 24 as part of or in furtherance of a common fraudulent scheme,
 25 design, or intention. ~~and~~
 26 ~~(3)~~ if, in a violation of ~~section 12(a)(5)~~ of this chapter, the
 27 consumer is at least sixty (60) years of age and the home
 28 improvement contract price is more than ten thousand dollars
 29 (~~\$10,000~~).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1207, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ULMER, Chair

Committee Vote: yeas 10, nays 0.

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